



DEPARTMENT OF THE INTERIOR

Office of the Secretary

43 CFR Part 2

[DOI-2021-0002]

[DS67010000, DWSNF0000.XD0000, DP67012, 22XD4523WS]

RIN 1090-AB24

Social Security Number Fraud Prevention Act of 2017 Implementation

AGENCY: Office of the Secretary, Interior.

ACTION: Direct final rule.

SUMMARY: The Department of the Interior (DOI) is publishing a direct final rule to promulgate regulations to implement the provisions of the Social Security Number Fraud Prevention Act of 2017. The new regulations will prohibit the inclusion of an individual's Social Security account number (SSN) on any document sent through the mail unless the Secretary of the Interior deems it necessary and precautions are taken to protect the SSN. The regulations also include requirements for the safeguarding of SSNs sent through the mail by partially redacting SSNs where feasible and prohibiting the display of SSNs on the outside of any package or envelope sent by mail. This rule is being published as a direct final rule as DOI does not expect any adverse comments. If adverse comments are received, this direct final rule will be withdrawn and a proposed rule for comments will be published.

DATES: This rule is effective [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER] without further action unless adverse comment is received by [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION

IN THE FEDERAL REGISTER]. If adverse comment is received, DOI will publish a timely withdrawal of the rule in the *Federal Register*.

ADDRESSES: Send written comments identified by docket number [DOI-2021-0002] or [Regulatory Information Number (RIN) 1090-AB24], by any of the following methods:

- Federal e-Rulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments to docket number [DOI-2021-0002].
- Email: DOI_Privacy@ios.doi.gov. Include docket number [DOI-2021-0002] or RIN 1090-AB24 in the subject line of the message.
- U.S. mail or hand-delivery: Teri Barnett, Departmental Privacy Officer, U.S. Department of the Interior, 1849 C Street NW, Room 7112, Washington, DC 20240.

Instructions: All submissions received must include the agency name and docket number [DOI-2021-0002] or RIN 1090-AB24 for this rulemaking. All comments received will be posted without change to <http://www.regulations.gov>, including any personal information provided.

Docket: For access to the docket to read background documents or comments received, go to <http://www.regulations.gov>.

FOR FURTHER INFORMATION CONTACT: Teri Barnett, Departmental Privacy Officer, U.S. Department of the Interior, 1849 C Street NW, Room 7112, Washington, DC 20240, DOI_Privacy@ios.doi.gov or (202) 208-1605.

SUPPLEMENTARY INFORMATION:

I. Background

The Social Security Number Fraud Prevention Act of 2017 (the Act), Public Law 115-59, 42 U.S.C. 405 note, was signed on September 15, 2017. The Act restricts the inclusion of SSNs on any documents sent by mail unless the head of the agency

determines that the inclusion of the SSN on the document is necessary. The Act also directs agencies to issue regulations that specify when inclusion of an SSN is necessary, include requirements for the safeguarding of SSNs by partially redacting SSNs where feasible and prohibiting the display of SSNs on the outside of any package or envelope sent by mail.

In this direct final rule, DOI is adding a new subpart M, Social Security Number Fraud Prevention Act Requirements, to 43 CFR part 2, to implement the provisions of the Act. To comply with the Act, the new regulations in subpart M prohibit the inclusion of SSNs on any document sent through the mail by DOI bureaus and offices unless the Secretary of the Interior (Secretary) deems it necessary and precautions are taken to protect the SSNs. To safeguard SSNs and protect individual privacy, subpart M includes requirements for DOI bureaus and offices to partially redact SSNs where feasible, and specifically prohibits the display of complete or partial SSNs on the outside of any package or envelope sent by mail or through the window of an envelope or package. Subpart M applies to all DOI bureau and office activities and describes the scope of the regulations to include all documents written or printed that DOI sends by mail that include the complete or partial SSN of an individual as defined by the Privacy Act of 1974, as amended, 5 U.S.C. 552a.

II. Direct Final Rulemaking

This rule is being published as a direct final rule as DOI does not expect to receive any significant adverse comments. If such comments are received, this direct final rule will be withdrawn and a proposed rule for comments will be published. If no such comments are received, this direct final rule will become effective after the comment period expires. A significant adverse comment is one that explains (1) why the rule is inappropriate, including challenges to the rule's underlying premise or approach; or (2) why the direct final rule will be ineffective or unacceptable without a change. In

determining whether a significant adverse comment necessitates withdrawal of this direct final rule, DOI will consider whether the comment raises an issue serious enough to warrant a substantive response had it been submitted in a standard notice and comment process. A comment recommending an addition to the rule will not be considered significant and adverse unless the comment explains how this direct final rule would be ineffective without the addition.

An agency typically uses direct final rulemaking when it anticipates the rule will be non-controversial. DOI has determined that this rule is suitable for direct final rulemaking. The purpose of this rule is to implement the provisions of the Act to apply restrictions and safeguards for the inclusion of SSNs in documents that are mailed to prevent unauthorized disclosure of SSNs and protect individual privacy. This rule should not be controversial and is consistent with Federal law and policy regarding the appropriate handling and protection of personally identifiable information. Accordingly, pursuant to 5 U.S.C. 553(b), DOI has for good cause determined that the notice and comment requirements are unnecessary. This action is taken pursuant to delegated authority.

III. Compliance with Other Laws, Executive Orders, and Department Policy.

1. Regulatory Planning and Review (Executive Orders 12866 and 13563).

Executive Order 12866 provides that the Office of Information and Regulatory Affairs in the Office of Management and Budget (OMB) will review all significant rules. The Office of Information and Regulatory Affairs has determined that this rule is not significant.

Executive Order 13563 reaffirms the principles of Executive Order 12866 while calling for improvements in the nation's regulatory system to promote predictability, to reduce uncertainty, and to use the best, most innovative, and least burdensome tools for achieving regulatory ends. The Executive Order directs agencies to consider regulatory

approaches that reduce burdens and maintain flexibility and freedom of choice for the public where these approaches are relevant, feasible, and consistent with regulatory objectives. Executive Order 13563 emphasizes further that regulations must be based on the best available science and that the rulemaking process must allow for public participation and an open exchange of ideas. We have developed this rule in a manner consistent with these requirements.

2. Regulatory Flexibility Act.

DOI certifies that this rule will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601, *et seq.*). This rule does not impose a requirement for small businesses to report or keep records on any of the requirements contained in this rule.

3. Small Business Regulatory Enforcement Fairness Act.

This rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. This rule:

- (a) Does not have an annual effect on the economy of \$100 million or more.
- (b) Will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions.
- (c) Does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises.

4. Unfunded Mandates Reform Act.

This rule does not impose an unfunded mandate on State, local, or tribal governments in the aggregate, or on the private sector, of more than \$100 million per year. The rule does not have a significant or unique effect on State, local, or tribal governments or the private sector. The rule implements the Act in order to restrict the use of complete SSNs in documents sent via mail. A statement containing the

information required by the Unfunded Mandates Reform Act (2 U.S.C. 1531, *et seq.*) is not required.

5. Takings (Executive Order 12630).

This proposed rule does not affect a taking of private property or otherwise have taking implications under Executive Order 12630. This rule is not a government action capable of interfering with constitutionally protected property rights. The rule implements the Act in order to restrict the use of complete SSNs in documents sent via mail. A takings implication assessment is not required.

6. Federalism (Executive Order 13132).

Under the criteria of section 1 of Executive Order 13132, this rule does not have any federalism implications to warrant the preparation of a Federalism Assessment. The rule is not associated with, nor will it have substantial direct effects on the States, on the relationship between the Federal Government and the States, or on the distribution of power and responsibilities among the various levels of government. A Federalism Assessment is not required.

7. Civil Justice Reform (Executive Order 12988).

This rule complies with the requirements of Executive Order 12988. Specifically, this rule:

(a) Meets the criteria of section 3(a) requiring that all regulations be reviewed to eliminate errors and ambiguity and be written to minimize litigation; and

(b) Meets the criteria of section 3(b)(2) requiring that all regulations be written in clear language and contain clear legal standards.

8. Consultation and Coordination with Indian Tribal Governments (Executive Order 13175).

In accordance with Executive Order 13175, DOI has evaluated this proposed rule and determined that it would have no substantial effects on federally recognized Indian

Tribes. This proposed rule does not have tribal implications that impose substantial direct compliance costs on Indian Tribal governments.

9. Paperwork Reduction Act of 1995.

This rule does not contain information collection requirements and a submission under the Paperwork Reduction Act is not required.

10. National Environmental Policy Act of 1969.

The proposed rule implements the Act in order to restrict the use of complete SSNs in documents sent via mail, and does not constitute a major Federal action and would not have a significant effect on the quality of the human environment. Therefore, this rule does not require the preparation of an environmental assessment or environmental impact statement under the requirements of the National Environmental Policy Act.

11. Data Quality Act.

In developing this rule, there was no need to conduct or use a study, experiment, or survey requiring peer review under the Data Quality Act (Pub. L. 106-554, section 515).

12. Effects on Energy Supply (Executive Order 13211).

This rule is not a significant energy action under the definition in Executive Order 13211. DOI has determined that this proposed rule will not have substantial direct effects on energy supply, distribution, or use, including a shortfall in supply or price increase. The rule has no bearing on energy development and will have no effect on the volume or consumption of energy supplies. A Statement of Energy Effects is not required.

13. Clarity of this Regulation.

DOI is required by Executive Orders 12866 (section 1(b)(12)), 12988 (section 3(b)(1)(B)), and 13563 (section 1(a)), the Plain Writing Act of 2010 (Pub. L. 111-274),

and the Presidential Memorandum of June 1, 1998, to write all rules in plain language.

This means each rule we publish must:

- (a) Be logically organized;
- (b) Use the active voice to address readers directly;
- (c) Use common, everyday words and clear language rather than jargon;
- (d) Be divided into short sections and sentences; and
- (e) Use lists and tables wherever possible.

List of Subjects in 43 CFR Part 2

Administrative practice and procedure, Classified information, Confidential business information, Courts, Freedom of Information, Government employees, Privacy, and Social Security Number Fraud Prevention

For reasons stated in the preamble, DOI amends part 2 of title 43 of the CFR as set forth below:

PART 2—FREEDOM OF INFORMATION ACT; RECORDS AND TESTIMONY

1. The authority citation for part 2 is revised to read as follows:

Authority: 5 U.S.C. 301, 552, 552a, 553, 31 U.S.C. 3717, 43 U.S.C. 1460, 1461, the Social Security Number Fraud Prevention Act of 2017, Pub. L. 115-59, September 15, 2017.

2. Add subpart M to read as follows:

Subpart M - Social Security Number Fraud Prevention Act Requirements

Sec.

2.300 What is the purpose of this subpart?

2.301 What does this subpart cover?

2.302 What terms are used in this subpart?

2.303 What are DOI's requirements for protecting SSNs in document sent by mail?

Subpart M - Social Security Number Fraud Prevention Act Requirements

§ 2.300 What is the purpose of this subpart?

(a) The purpose of this subpart is to implement the requirements of the Social Security Number Fraud Prevention Act of 2017 (the Act), Public Law 115-59, 42 U.S.C. 405 note, September 15, 2017.

(b) The Act:

(1) Prohibits Federal agencies from including any individual's Social Security account number (SSN) on any document sent by mail unless the head of the agency determines that such inclusion is necessary; and

(2) Requires agencies to issue regulations that specify the circumstances under which such inclusion is necessary.

§ 2.301 What does this subpart cover?

(a) This subpart describes how DOI, including all its bureaus and offices, handles the use and protection of individuals' SSNs in documents that are mailed. SSNs may only be included in documents that are mailed when authorized and necessary, and where appropriate safeguards are employed to protect individual privacy in accordance with the Act.

(b) This subpart includes the circumstances under which inclusion of an individual's SSN on a document is authorized to be mailed;

(c) This subpart requires SSNs to be safeguarded when mailed by:

(1) Requiring the partial redaction of SSNs where feasible; and

(2) Prohibiting the display of SSNs on the outside of any package or mailing envelope sent by mail or through the window of an envelope or package.

§ 2.302 What terms are used in this subpart?

Act means the Social Security Number Fraud Prevention Act of 2017, Public Law 115-59.

Bureau is any component or constituent bureau or office of DOI, including the Office of the Secretary and any other Departmental office.

Department or DOI means the Department of the Interior.

Document means a piece of written or printed matter that provides information or evidence or that serves as an official record.

Individual means a natural person who is a citizen of the United States or an alien lawfully admitted for permanent residence as defined by the Privacy Act of 1974, as amended, 5 U.S.C. 552a.

Mail means artifacts used to assemble letters and packages that are sent or delivered by means of an authorized carrier of postal delivery or United States Postal Service (USPS) postal system. (For purposes of the subpart, the postal system that is managed by the U.S. Postal Service.)

Social Security number or Social Security account number means the nine-digit number issued by the Social Security Administration to U.S. citizens, permanent residents, and temporary (working) residents under section 205(c)(2) of the Social Security Act, codified as 42 U.S.C. 405(c)(2).

Truncated or partial SSN means the shortened or partial Social Security account number.

§ 2.303 What are DOI's requirements for protecting SSNs in document sent by mail?

(a) DOI bureaus and offices may not include the full or partial SSN of an individual on any document sent via mail unless:

- (1) The inclusion of an SSN on a document sent by mail is required or authorized by law;
- (2) The responsible program office has conducted the proper assessment and taken steps to mitigate the use of the SSN and any impacts to individual privacy; and

(3) The Secretary of the Interior has determined that the inclusion of the SSN on the document is necessary and appropriate to meet legal and mission requirements in accordance with this subpart.

(b) Bureaus and offices shall partially redact or truncate SSNs in documents sent by mail where feasible to reduce the unnecessary use of SSNs and mitigate risk to individuals' privacy.

(c) In no case shall any complete or partial SSN be visible on the outside of any envelope or package sent by mail or displayed on correspondence that is visible through the window of an envelope or package.

Signed: _____
Joan M. Mooney,
Principal Deputy Assistant Secretary
Policy, Management and Budget